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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re DESTINY S. et al., Persons Coming  
Under the Juvenile Court Law.

B262591

(Los Angeles County  
Super. Ct. No. DK07779)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

ASSAL F.,

Defendant and Appellant.

APPEAL from a judgment and an order of the Superior Court of Los Angeles County, Philip Soto, Judge. Affirmed in part and reversed in part.

John L Dodd, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, Interim County Counsel, Dawyn R. Harrison, Assistant County Counsel, and Navid Nakhjavani, Deputy County Counsel, for Petitioner and Respondent.

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## **INTRODUCTION**

Mother appeals the juvenile court's judgment pursuant to Welfare and Institutions Code<sup>1</sup> section 300, subdivision (b), finding jurisdiction over her children Destiny, Jesse, Nevaeh, and L.,<sup>2</sup> and dispositional order removing the children from her custody and designating the children's caretakers as their educational rights holders. We affirm jurisdiction because substantial evidence supports the court's finding that Mother's mental instability and suicidal ideations endangered the children's physical health and safety, and that Mother's unresolved mental health issues placed the children at substantial risk of future physical harm and danger. We conclude that the court did not err in making the dispositional order as evidence indicated that Mother was not capable of taking care of the children or making appropriate decisions regarding their wellbeing. We reverse the dispositional order to the extent it conditioned modification of the custody and visitation exit order for Navaeh upon Mother's completion of her case plan as to the other children.

## **FACTS AND PROCEDURAL BACKGROUND**

Prior to the present dependency case, Mother had nine referrals to Department of Children and Family Services (DCFS), with two substantiated allegations of emotional abuse by Mother and one of those substantiated referrals resulting in voluntary family services. Mother also had five prior convictions between 2009 and 2012, including driving under the influence and willful cruelty to a child. The present dependency case involves Mother's unresolved mental health issues.

In October 2014, Mother attempted suicide by taking 15 to 20 Xanax pills. Mother was home alone with her two youngest children, Nevaeh (then six years old) and L. (then a year old) during the suicide attempt. Mother's two older children, Destiny and Jesse, who were respectively 15 and 13 years old at the time, were not home during the

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<sup>1</sup> All subsequent statutory references are to the Welfare and Institutions Code.

<sup>2</sup> The children have three different biological fathers, none of whom are appealing from the juvenile court.

incident. Despite later denials that the incident was a suicide attempt, Mother told the responding paramedics that she took the pills in an effort to end her life. Mother was also under the influence of alcohol at the time and there were several opened containers of alcoholic beverages found in her room. Paramedics transported Mother to the hospital, where she was placed on a section 5150 hold for attempted suicide. At that time, Mother appeared to have been suffering from depression spurred by the recent death of her husband, L.'s father, who died of a drug overdose. DCFS was unable to interview Mother at the hospital due to Mother's erratic and aggressive behavior. Mother threw objects around the room, cursed at hospital staff, and generally acted belligerently, such that she had to be placed in restraints.

Several days after the suicide attempt, the juvenile court found a prima facie case of child abuse under section 300, subdivision (b), and ordered the children to be detained from Mother. L. was detained with his paternal grandmother. The court released Nevaeh to her biological father. The court ordered Jesse and Destiny to reside with the maternal grandfather, and authorized Mother to also live with the maternal grandfather on the condition that she not be left alone with the children at any time. The court ordered Mother to receive monitored visitation with the children.

In November 2014, Mother attempted to commit suicide again, this time with Jesse present at home. Mother acted erratically, overdosed on her seizure medication, stated that she wanted to hang herself with belt, and ran into the street partially clothed in a suicide attempt. Jesse chased after Mother and, with the help of a friend, was able to subdue and transport Mother to the hospital. At that juncture, the maternal grandfather reported to psychiatric facility staff that Mother was not following her mental health treatment and was not compliant in taking her medication. When the maternal grandfather learned that the hospital staff was required to report this information to DCFS, he became upset and strenuously objected to the information being relayed to DCFS. DCFS subsequently modified its original section 300 petition, which was filed in October 2014, to reflect this new attempted suicide incident.

Mother began psychiatric treatment at the Tarzana Treatment Center in January 2015, where she attended individual sessions and participated in psychiatric evaluation. There, Mother repeatedly refused to submit to a urine analysis test. Although the reason for her refusal was unclear, Mother admitted to using marijuana when staff requested that she drug test. Because she refused to submit to drug testing, the doctors at the facility were unable to properly diagnose and treat Mother. Mother's doctors reported that Mother stated that she was taking one medication and then later changed her story. The psychiatrist reported that Mother was wasting time in the program by not drug testing and by being dishonest regarding the drugs she was taking. The psychiatrist further stated that Mother was very confused, experienced shifts in mood, acted defiant, and appeared to have a thought or mood disorder.

Mother's mental health problems have impacted the children's behavior. Throughout the dependency case, Destiny exhibited behavioral problems, refusing to go to school and stalking her ex-boyfriend. Following one incident, where Destiny refused to get off the trunk of and subsequently out the passenger seat of her ex-boyfriend's vehicle, police arrested and detained Destiny at Sylmar Juvenile Hall for stalking. While Destiny was being fingerprinted after her arrest, she resisted the police officers, refused to follow their instructions, and intentionally injured herself, causing her nose to bleed and necessitating medical attention. Destiny threatened to kill herself, and police officers had to physically restrain her from hurting herself. Navaeh also exhibited behavioral problems, easily becoming angry and aggressive at school.

The court held the jurisdiction and disposition hearing in February 2015. After taking evidence from DCFS, testimony from Destiny and Jesse, and argument from counsel, the court found jurisdiction over the children and removed them from Mother's custody. The court sustained two counts under section 300, subdivision (b), which alleged that Mother had mental and emotional problems, including depression and suicidal ideation, that rendered Mother incapable of providing regular care for the children and placed the children at risk of physical harm, damage, and danger. The first count alleged that on October 5, 2014, Mother "attempted suicide while the children,

Nevaeh and L., were [in] her care and supervision,” that Mother was involuntarily hospitalized for the evaluation and treatment as a result of the suicide attempt, and that Mother failed to take psychotropic medication as prescribed. The juvenile court also found true the second count that alleged that on November 26, 2014, Mother attempted suicide by overdosing on seizure medication and “attempting to hang herself with a belt while the child, Jesse[,] was present in the home.” The count further stated that “Mother ran outside partially clothed and child, Jesse[,] chased after mother,” and that Mother failed to take her psychotropic medication as prescribed. The allegation stated that as a result, Mother was involuntarily hospitalized again for evaluation and treatment of her psychiatric condition.

The court ordered Mother to participate in parenting classes, address her mental health issues, take all prescribed psychotropic medication, and submit to drug testing. The court ordered the children to remain in their placements and for Mother to have monitored visitation. The court terminated jurisdiction over Nevaeh, with an exit order placing her in her biological father’s custody and providing Mother with monitored visitation pursuant to section 361.2. The court ordered that there should not be changes in Navaeh’s visitation or custody plan unless Mother completes the case plan adopted as to the other children. The court also designated the maternal grandfather as the educational rights holder for Destiny and Jesse. The court designated L.’s paternal grandmother as his educational rights holder.

## **DISCUSSION**

On appeal, Mother argues that the children were not at risk of physical harm due to her mental health issues. She asserts that the juvenile court erred when it assumed jurisdiction over the children and issued a dispositional order removing the children from her custody, granting educational rights to their caretakers, and conditioning changes in Navaeh’s custody plan on Mother’s completion of her case plan in the dependency case.

# ***1. Jurisdiction Was Supported by Substantial Evidence***

Mother argues that the court erred in finding jurisdiction over her children pursuant to section 300, subdivision (b), premised on her suicide attempts and mental health issues. A jurisdictional finding under section 300, subdivision (b) requires “three elements: (1) neglectful conduct by the parent in one of the specified forms [in subdivision (b), such as a parent’s failure to adequately supervise or protect a minor]; (2) causation; and (3) ‘serious physical harm or illness’ to the minor, or a ‘substantial risk’ of such harm or illness.” (*In re Rocco M.* (1991) 1 Cal.App.4th 814, 820.) We review the juvenile court’s jurisdictional findings for substantial evidence. (*Los Angeles County Dept. of Children & Family Services v. Superior Court* (2013) 215 Cal.App.4th 962, 966.) “Substantial evidence is relevant evidence which adequately supports a conclusion; it is evidence which is reasonable in nature, credible and of solid value.” (*In re R.C.* (2012) 210 Cal.App.4th 930, 941.) Although substantial evidence may consist of inferences, the inferences “ ‘must be “a product of logic and reason” and “must rest on the evidence” [citation]; inferences that are the result of mere speculation or conjecture cannot support a finding [citations].’ ” (*In re Savannah M.* (2005) 131 Cal.App.4th 1387, 1393-1394, italics omitted.) Conflicts in the evidence and reasonable inferences are resolved in favor of the prevailing party. (*In re Ricardo L.* (2003) 109 Cal.App.4th 552, 564.) “[I]ssues of fact and credibility are questions for the trier of fact.” (*Ibid.*)

## ***a. If Returned to Mother’s Custody, the Children Would be in Substantial Risk of Harm***

Here, Mother’s mental health and emotional issues, suicidal ideations, drug use, and lack of cooperation in seeking psychiatric treatment clearly placed the children in substantial risk of harm. In her first suicide attempt, Mother took 15 to 20 Xanax pills with the intention of ending her life, while home with her unsupervised six-year-old and one-year-old children. This incident alone, in combination with Mother’s failure to address her ongoing mental health and substance abuse problems, provides substantial evidence to support jurisdiction that Mother cannot provide the two younger children adequate supervision to ensure their safety.

Mother's second suicide attempt further evidences the danger to the children, particularly the two teenagers. During the second incident, Mother overdosed on her seizure medication, wanted to hang herself, acted erratically, and ran partially clothed into the street in a suicide attempt. Her 13-year-old son had to chase after her, subdue her, and obtain the assistance of a friend to drive Mother to the hospital. In this second attempt, Mother involved her son in her dangerous behavior and in complete disregard for his safety. Mother's mental and emotional problems create a dangerous environment for all of the children.

As Mother has failed to address these mental health problems, there is substantial evidence of a present risk of harm to the children. Mother refused to drug test and lied to her physicians about the drugs she was taking, and thus inhibited her psychiatrist from making a proper diagnosis and providing her with appropriate treatment. Moreover, Mother's suicidal and dangerous behavior does not appear to be new. In 2011, Mother shoplifted while in a store with Destiny. When police apprehended and arrested Mother and Destiny, Mother took a wire cutter tool from her purse, placed the open tool against her own neck, and attempted to cut herself.

In sum, Mother's inability to provide care and supervision is evidenced by Mother's incapacity during her suicide attempts, particularly in the first incident where Mother left her six-year-old and one-year-old unsupervised. (*In re Christopher R.* (2014) 225 Cal.App.4th 1210, 1216 ["Exercise of dependency court jurisdiction under section 300, subdivision (b), is proper when a child is 'of such tender years that the absence of adequate supervision and care poses an inherent risk to [his or her] physical health and safety.'"]). Moreover, Mother involves the children in her dangerous, self-destructive behavior. Mother's unpredictable and dangerous behavior around and involving the children in combination with her failure to address her mental health problems placed all four children in substantial risk of physical harm if they were returned to her care at the time of the jurisdiction and disposition hearing. (*In re Rocco M., supra*, 1 Cal.App.4th at p. 824 ["evidence of past conduct may be probative of current conditions"]).

*b. Cases Cited By Mother Are Distinguishable*

Mother argues that the court erred in finding jurisdiction because the children were healthy and well cared for, and likens her case to *In re James R.* (2009) 176 Cal.App.4th 129, where the appellate court reversed the jurisdictional finding for insufficient evidence. In *In re James R.*, the juvenile court assumed jurisdiction over the mother's three children (ages four, three and one years old) when she was hospitalized after she had taken prescription medications and consumed alcohol. (*Id.* at p. 131-132.) The social services agency believed the mother's children were at risk of harm because there was a possibility that the mother could repeat her conduct if she did not follow through with treatment. (*Id.* at p. 134.) The appellate court reversed the jurisdictional finding over the children because there "[a]ny causal link between [Mother's] mental state and future harm to the minors was speculative." (*Id.* at p. 136.) There, the evidence showed that there was no history of abuse toward the children, the father (who lived with the mother) was able to protect the children from the mother, the social services agency reported that the mother's mental health or possible substance abuse did not impair her ability to care for the children, the mother had not intended to commit suicide, and the mother had not had suicidal ideations since the birth of her children. (*Id.* at p. 136-137.)

*In re James R., Jr.* is clearly inapt. Here, Mother has a history of emotional abuse toward the children, and a criminal history that includes a cruelty toward a child conviction. Mother's substance abuse and mental and emotional problems have already impaired her ability to supervise her children, as she has attempted suicide in front of three of her children and left a six year old and one year old unsupervised during one of the incidents. Unlike the mother in *In re James R.*, Mother has had recent suicidal ideations. Mother failed to address the underlying problems causing these ideations and obtain the appropriate mental health treatment because she refused to submit to drug testing and lied to her physicians.



*In re Matthew S.* (1996) 41 Cal.App.4th 1311, on which Mother relies, also does not compel a contrary result. There, the mother suffered from delusions, including that her 13-year-old son's penis was mutilated and that she had murdered his treating physician. (*Id.* at p. 1314.) Acting on the delusions, the mother took the son to a urologist, who found no evidence of injury. (*Ibid.*) The reviewing court reversed the juvenile court's jurisdictional finding pursuant to section 300, subdivision (b). (*Id.* at pp. 1318–1319.) The court explained: “Aside from going to the urologist to make sure her son was not harmed after she had a delusion, she is an excellent mother. [The son] consistently expressed no fear of [the mother] for any reason. Neither did his siblings. She has a well-kept home, provides meals to her children and has consistently obtained medical treatment for the children. Her children are healthy, well groomed and attractive. She has voluntarily participated in extensive therapy for herself over the years, too.” (*Id.* at p. 1319.)

In contrast, Mother's emotional and mental problems place the children at substantial risk of suffering serious physical harm. Mother has involved the children in her dangerous and self-destructive behavior and has failed to properly supervise them when intentionally overdosing on drugs. We conclude that substantial evidence supports the court's conclusion that all four children would be at substantial risk of harm if returned to Mother's custody.

*c. Jurisdiction Over Navaeh Was Appropriate*

To the extent that Mother asserts that the court erred in sustaining jurisdiction over Navaeh, we disagree. Citing *In re A.G.* (2013) 220 Cal.App.4th 675, Mother argues that because Navaeh was placed in her father's home following her detention from Mother's custody and her father was taking good care of her, there was no risk of harm to Navaeh at the time of the jurisdiction hearing. In *In re A.G.*, the Court of Appeal found that the dependency court should not have sustained a section 300 petition alleging only that the mother was mentally ill and unable to care for the children, where the father was, and always had been, capable of properly caring for them. (*Id.* at p. 677.) The court

concluded that the petition should have been dismissed and that the matter belonged in family court, where custody and visitation could be determined. (*Id.* at p. 686.)

*In re A.G.* is incongruent to the facts before us. First, the children in *In re A.G.* had always been cared for by a responsible parent (the father) and had never been harmed or at risk of harm. (*In re A.G.*, *supra*, 220 Cal.App.4th at pp. 684-686.) In contrast, Mother, the offending parent, solely took care of Navaeh prior to the dependency proceeding and had placed Navaeh at risk of harm when she attempted to commit suicide in the child's presence. Second, the procedural posture of this case differed from that of *In re A.G.*, where the father asked the juvenile court to terminate the dependency case with a family law order giving the father sole custody, a request in which the minor's counsel joined. (*Id.* at p. 682.) No such request was made here. Rather, counsel for Navaeh and DCFS both argued that the section 300 petition should be sustained, and the father's counsel did not object.

The juvenile court was tasked with determining whether there would be a substantial risk of harm to Navaeh if she was in Mother's custody. For reasons explained at length above, Navaeh would be at substantial risk of harm under such circumstances. Navaeh was only placed in Father's custody due to the court's detention of Navaeh from Mother's custody. The dependency court properly sustained the petition and its finding that Navaeh was at substantial risk of serious harm was supported by substantial evidence.

We also disagree with Mother's contention that "the court should have dismissed dependency jurisdiction [as to Navaeh], allowing the family to resolve its issues in the Family Law Court." Dismissal of the dependency petition is in the discretion of the trial court. (*In re Phoenix B.* (1990) 218 Cal.App.3d 787, 792-793.) That a family court could issue an order to sufficiently protect Navaeh does not require the court to dismiss the dependency petition in favor of a family law proceeding. In *In re Nicholas E.* (2015) 236 Cal.App.4th 458, 465, the appellate court held that the family court's order in divorce and child custody proceedings depriving the mother of custody to the children and the mother's agreement not to object to the family court order were not a proper basis for

juvenile court to dismiss a dependency petition that included jurisdictional allegations only against mother. The appellate court explained that the dismissal order effectively meant that the juvenile court was abstaining from exercising its jurisdiction in favor of the family court, and thus the dismissal order “diluted the primacy of dependency jurisdiction.” (*Id.*; see *In re Jennifer R.* (1993) 14 Cal.App.4th 704, 712 [“[T]he juvenile court, which has been intimately involved in the protection of the child, is best situated to make custody determinations based on the best interests of the child without any preferences or presumptions.”].)

Here, Mother never specifically requested the court to dismiss the dependency case as to Navaeh so that the family court could determine custody. In addition, the court did not abuse its discretion in maintaining the dependency action as to Navaeh because dismissal would have likewise diluted the primacy of dependency jurisdiction, and the juvenile court, which had been dealing with this case for months, was best situated to make an immediate determination as to Navaeh’s best interests. The juvenile court’s exercise of discretion to proceed with Navaeh’s dependency case under these circumstances did not exceed the bounds of reason so as to require reversal. (See *In re Stephanie M.* (1994) 7 Cal.4th 295, 318 [describing the test for abuse of discretion].)

Based on the foregoing, we affirm the juvenile court’s judgment sustaining jurisdiction over all four children.

**2. *The Dispositional Order Removing the Children from Mother’s Custody Was Supported by Substantial Evidence***

Mother asserts that the dispositional order removing the children from Mother’s custody was not supported by substantial evidence. Under section 361, subdivision (c)(1), children may not be removed from their parent’s home “unless the juvenile court finds clear and convincing evidence” of a “substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor’s physical health can be protected without removing the minor from the minor’s parent’s or guardian’s physical custody.” “A removal order is proper if it is based on proof of (1) parental

inability to provide proper care for the minor and (2) potential detriment to the minor if he or she remains with the parent.” (*In re T.W.* (2013) 214 Cal.App.4th 1154, 1163.) Upon satisfying these prongs, the removal is appropriate even if the parent is not dangerous and the minor at issue has not yet been harmed. (*Ibid.*) “The focus of the statute is on averting harm to the child.” (*Ibid.*) We review the court’s dispositional order for substantial evidence. (*Id.* at p. 1162.)

As explained above in our analysis of the substantial evidence supporting the court’s jurisdictional findings, Mother posed a risk of physical danger to the children. Mother demonstrated during her suicide attempts that she could not provide the children, particularly the one year old and six year old, with adequate supervision and that she involved her older children in her dangerous and self-destructive behavior. These dangers continue to exist because Mother has failed to address her underlying mental health and emotional problems by refusing to drug test and by lying to her physicians. In addition to the potential physical harm that could be inflicted on the children by returning to Mother’s custody, the children would suffer emotionally from Mother’s persistent and unaddressed mental health and emotional issues. The impact of Mother’s mental health issues has already manifested in Destiny’s and Navaeh’s behavioral problems.

Mother asserts that the court could have conditioned her custody on her being fully compliant with her psychiatric outpatient treatment program, on drug testing, on the maternal grandfather staying in the home, and on Mother not being alone with the children. Yet, in the months leading up to the jurisdiction and disposition hearing, Mother failed to comply with psychiatric treatment by refusing to drug test and lying to her doctors. Ordering Mother to comply with testing and treatment thus does not appear to be a reasonable solution. In addition, Mother’s second suicide attempt, where Jesse chased after her into the street, occurred after the court ordered Jesse and Destiny to reside with the maternal grandfather, and authorized Mother to also live with the maternal grandfather on the condition that she not be left alone with the children at any time. That living arrangement did not successfully protect the children from Mother. Thus,

substantial evidence supports the determination that there was no reasonable means to prevent removal of the children from Mother's custody.

We therefore affirm the court's dispositional order removing custody of the children from Mother because it is supported by substantial evidence of her inability to supervise and properly care for the children, and that returning to Mother's custody would be detrimental to the children.

**3. *The Dispositional Order Removing Mother's Educational Rights over the Children Was Supported by Substantial Evidence***

Mother claims there was no substantial evidence that she was unwilling or unable to make educational decisions; thus, the juvenile court's order designating the respective care givers as the holders of the children's educational rights was an abuse of discretion. We are not persuaded.

The juvenile court may limit a parent's right to control his or her child's education when the child has been declared a dependent under section 300. (§ 361, subd. (a)(1); Cal. Rules of Court, rules 5.649(a) & 5.650(a).) The court has broad discretion to make reasonable orders for the care and support of a child; any limitations on a parent's control over educational decisions under section 361 must not exceed "those necessary to protect the child." (§ 361, subd. (a)(1); *Jonathan L. v. Superior Court* (2008) 165 Cal.App.4th 1074, 1087, fn. 12.) When exercising discretion to limit a parent's educational rights, the juvenile court should consider the history of abuse, the parent's continued refusal to accept that he or she has abused the child, the parent's lack of cooperation with investigating social workers, and other relevant matters. (*Jonathan L. v. Superior Court*, at p. 1104.) We review the juvenile court's order limiting Mother's educational rights for abuse of discretion. Under that standard, we do not disturb the ruling unless the juvenile court exceeded the bounds of reason and made an arbitrary, capricious, or patently absurd decision. (*In re Stephanie M.*, *supra*, 7 Cal.4th at pp. 318–319.)

The children in this case require attentive parenting as to educational decisions. At the inception of this dependency case, Destiny refused to attend school and only returned to school just prior to the jurisdiction and dispositional hearing. Destiny also has a history of poor grades and her report card indicated that based on her academic performance prior to DCFS's involvement, she was not on track to graduate with her peers. The record also indicates that L. was eligible and in need of Regional Center services.

Mother's ability to make educational decisions to address these needs was compromised by her own mental and emotional problems. According to her psychiatrist, Mother's disposition was confused, defiant, and mercurial. She denied that she tried to commit suicide and then failed to cooperate with the psychiatric treatment program to obtain the appropriate treatment. The record evidences Mother's poor sense of judgment, and inability to make important decisions like those related to her children's education. We therefore conclude that substantial evidence supports the court's decision to transfer the decision-making responsibility as to the children's educational needs to their caregivers.

**4. *The Court Erred in Conditioning Modifications of the Exit Order for Navaeh's Custody and Visitation on Mother's Completion of the Case Plan as to Her Other Children***

When it terminated jurisdiction over Navaeh, the juvenile court made an exit order granting the father sole physical custody and joint legal custody of Navaeh, and ordering monitored visits for Mother "in accordance with the visitation orders previously made." The court ordered that there would be "[n]o change in visits or custody unless [M]other completes the case plan that will be adopted today as to the other children." We agree with Mother that the court abused its discretion in purporting to limit the family court's discretion to modify custody orders upon Mother's completion of the case plan.

" 'When a juvenile court terminates its jurisdiction over a dependent child, it is empowered to make "exit orders" regarding custody and visitation. [Citations.] Such orders become part of any family court proceeding concerning the same child and will

remain in effect until they are terminated or modified by the family court. [Citation.]’ [Citation.]” (*In re A.C.* (2011) 197 Cal.App.4th 796, 799.) Pursuant to statute, a family law court can only modify an exit order where there the case presents changed circumstances. Section 302, subdivision (d), states that an exit order “shall not be modified in a proceeding or action described in Section 3021 of the Family Code unless the court finds that there has been a significant change of circumstances since the juvenile court issued the order and modification of the order is in the best interests of the child.”

In *In re Cole Y.* (2015) 233 Cal.App.4th 1444, 1455, the Court of Appeal addressed a similar issue and concluded that “the juvenile court’s exit order requiring Father to complete drug and parenting programs and individual counseling before the family law court could modify the juvenile court’s exit order conflict[ed] with section 302, subdivision (d), and was, thus, an abuse of discretion.” The Court explained: “The issue before us is . . . whether the juvenile court had authority to condition the family court’s modification of an exit order upon the completion of counseling and other programs in the face of a statute—section 302, subdivision (d)—that requires a particular finding before the family court may modify such an exit order. The juvenile court did not have that authority, and therefore it had *no* discretion to impose such a condition on the family court here.” (*Id.* at p. 1456, fn. omitted.)

Likewise here, the juvenile court lacked the authority or the discretion to condition modification of the exit order on Mother’s completion of her case plan. Once exit orders are issued, the family law court can modify the exit order upon finding that there has been a substantial change in circumstances and that the modification would be in the child’s best interest. (§ 352.) We thus reverse the juvenile court’s exit order to the limited extent that it conditions modifications to custody and visitation on Mother’s completion of her case plan as to the other children.

## **DISPOSITION**

The dispositional order is reversed to the extent it conditioned modification of the family court's custody and visitation order for Navaeh upon Mother's completion of her case plan as to the other children. In all other respects, the court's judgment finding jurisdiction and dispositional order are affirmed.

## **NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

JONES, J.\*

We concur:

ALDRICH, Acting P. J.

LAVIN, J.

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.